

**City of Chicago
Department of
Planning and Development**

2015 AFFORDABLE REQUIREMENTS ORDINANCE RULES & REGULATIONS

Effective October 13, 2015

**City of Chicago
Mayor Rahm Emanuel**

**Planning and Development
Andrew J. Mooney, Commissioner**

**2015 AFFORDABLE REQUIREMENTS ORDINANCE (ARO) RULES & REGULATIONS
AUTHORITY AND USAGES**

BY AUTHORITY VESTED IN THE COMMISSIONER OF PLANNING AND DEVELOPMENT PURSUANT TO SECTION 2-45-115 OF THE MUNICIPAL CODE OF CHICAGO, THE FOLLOWING RULES AND REGULATIONS REGARDING THE 2015 AFFORDABLE REQUIREMENTS ORDINANCE ARE ADOPTED HEREIN.

Signed: *Patricia J. Sordani* Date: *August 6, 2015*
Commissioner *Andrew J. Mooney* Date Signed by Commissioner

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Article 1: Applicability

The 2015 Ordinance (2-45-115 of the Municipal Code) sets out Applicability standards in Article C. The following Rules provide clarification, where needed:

1.1 Financial Assistance

Whenever the City provides financial assistance to any developer in connection with the development of a Residential Housing Project, 20% of the total units in a Residential Housing Project must be affordable.

If a project receives TIF assistance and the guidelines governing the TIF Redevelopment Project area in which the project is proposed do not state otherwise, for **rental** projects, half of the affordable units must be affordable to households earning 60% of AMI and half of the affordable units must be affordable to households earning 50% of AMI. For **for-sale** projects, half of the affordable units must be affordable to households earning 100% of AMI and half of the total units must be affordable to households earning 80% of AMI.

When TIF funds are used to fund the construction, renovation and rehabilitation of new housing units to be occupied by low-and very low-income households, the affordability guidelines set forth in the TIF Guidelines – not the ARO – will apply. Many of these projects also receive other forms of City financial assistance, such as Low Income Housing Tax Credits, which have more restrictive affordability requirements than the ARO, and, as such, will be monitored by DPD's Developer Services Division and not under the ARO. However, projects receiving these other forms of financial assistance must include a Planned Development (PD) Statement provided by the City acknowledging the applicability of the ARO, should project details change, or the monitoring period required by the alternate sources expire prior to the 30-year term required by the ARO.

Residential Housing Projects that receive TIF assistance – but no other form of City financial assistance that would impose stricter affordability requirements – must meet the requirements of the ARO.

City land sales alone do not constitute financial assistance, even if the land sale represents below-market value.

1.2 Projects Subject to the 2007 ARO (Section 2-45-110)

Projects that have been introduced to City Council prior to the 2015 ARO Effective date of October 13, 2015 AND have been approved by City Council prior to July 13, 2016 will be subject to the requirements of the 2007 ARO, as described in Section 2-45-110 of the Municipal Code, as well as the policies followed by the Department while implementing this Ordinance (including consistently rounding up for any fraction of a whole number). These projects have the option to pay the in-lieu fee of \$100,000 or provide affordable units on-site.

For existing PDs authorized before the 2015 ARO effective date (October 13, 2015), only the additional housing units or floor area allowed by the amendment will be subject to the ARO, provided the PD has not sunsetted. However, if the existing PD included an ARO obligation, that obligation would remain, even following an amendment to the PD – and the new units would additionally be subject to the 2015 ARO.

For PDs with multiple subareas, the ARO is only triggered if the overall floor area or unit count is increased.

1.3 Effective Date of the 2015 ARO

October 13, 2015 is the effective date of the 2015 ARO. Projects that trigger the ARO and that are submitted* after the effective date will be subject to the 2015 ARO, per Section 2-45-115 of the Municipal Code.

Projects that have been submitted* prior to October 13, 2015 will be subject to the 2007 ARO, as described in Section 2-45-110 of the Municipal Code. However, if projects submitted prior to October 13, 2015 do not receive City Council approval by July 13, 2016, the requirements of the 2015 ARO will apply.

*Section 2-45-110 of the Municipal Code defines “submitted” as follows: With respect to an application for zoning approval or the sale of city land, an ordinance authorizing the rezoning or city land sale has been introduced to city council; with respect to financial assistance, a complete application has been received and accepted by DPD.

Article 2: Interaction with the Affordable Housing Zoning Bonus (density bonus)

Projects that are subject to the ARO and that elect to meet the requirements outlined in Section 17-4 -1004 of the Municipal Code for the Affordable Housing Zoning Bonus (commonly referred to as the density bonus) must first make their required payment under the Density Bonus.

The density bonus payment can be applied as a credit to the in-lieu fees owed under the ARO. The density bonus payment cannot be utilized to meet the project’s on-site or off-site unit requirement. In most cases, this will mean that the developer will pay the *higher of* the ARO or density bonus in-lieu fee.

If a developer elects to meet their Density Bonus or ARO obligation by constructing units on-site or off-site, the amount that would have been owed in corresponding in-lieu fees will be treated as a credit against their remaining owed Density Bonus or ARO payment.

For example: A 227-unit rental project in the DX-7 zoning district is subject to the ARO and elects to take a density bonus of up to 40,000 square feet. Under the ARO, the applicant would have an obligation for 23 affordable units, with a requirement to put 2.5% of the total units - or 6 units – on-site or off-site. Assuming the applicant elected to place 6 of the units on-site and pay the in-lieu fee for the remaining 17 units, the in-lieu fee owed under the ARO would be $[17] \times \$175,000$, or \$2,975,000. Under the Density Bonus, the applicant would owe \$928,000 (based on the density bonus formula: $40,000 \text{ bonus sf} \times 80\% \times \$29 \text{ (median land price per base FAR foot for the West Submarket)} = \$928,000$). In this example, the \$928,000 the developer pays to receive the Density Bonus would be applied as a credit to the ARO obligation of \$2,975,000.

Article 3: ARO Zone Map

The 2015 ARO creates and defines three areas – or zones – in the city to reflect different housing markets and priorities: downtown; higher-income areas; and low-moderate income areas.

The ARO Zone Map uses household income and poverty to designate the low-moderate and higher income areas, or zones. To define the zones, a designation was first assigned to each census tract in the City, using the following criteria:

Higher Income Areas are census tracts that are:

- Higher Income: 50% of households or more earn more than 60% of the Chicago median income in two of the last three years for which data is available; AND
- Low Poverty: The poverty rate is less than or equal to 25% in two of the last three years for which data is available

Low-Moderate Income Areas are census tracts that are:

- Lower Income: More than 50% of households earn less than 60% of the Chicago median income in two of the last three years for which data is available; OR
- High Poverty: The poverty rate is greater than 25% in two of the last three years for which data is available

After mapping the census tracts as described above, community areas in which the majority of the area is represented by higher income census tracts are designated as Higher Income Community Areas. Community areas in which the majority of the area is represented by lower income census tracts are designated as Low-Moderate Income Community Areas. In both maps, the Downtown Zone is defined by the boundaries of the “D” zoning districts as now or hereafter designated in the Chicago Zoning Ordinance, Chapter 17-4 of the Municipal Code.

The map will be updated on January 1 of every fifth year, beginning on January 1, 2020. When the map is updated, the new map will be published on the ARO website by July 31 (or 45 days after data is available, whichever comes later) of the year preceding the effective date. A project will be subject to the parameters of the map that is effective at the time a project is *submitted*, per the definition outlined in section 2-45-110 of the Municipal Code.

Article 4: Calculation of Required Units and/or Fees-in-Lieu

Projects that are subject to the ARO must provide 10% of the project’s total units as affordable (20% if the project receives financial assistance from the City).

A minimum of 2.5% of the total units – ¼ of the required affordable units – must be provided on-site (or off-site, as described in Article 6.1 or 6.2 of the Rules & Regulations). Once developers meet their on-site requirement, they may elect to pay an in-lieu fee to meet their remaining affordability obligation.

4.1 Calculation of Affordability Obligation

Calculation of the affordability obligation is based on the total number of housing units in the

residential housing project, including any units enabled by a downtown affordable housing zoning bonus (density bonus) or the ARO Transit Served Location (TSL) bonus.

4.2 Calculation of required on-site affordable units

For the purpose of calculating the number of required on-site affordable units, DPD will multiply the total number of units in the project by 2.5%, as shown below.

On-site units* are 2.5% of total units			
total units in project	total affordable units required	on-site* affordable units required	on-site TSL units required
10-14	1	0	1
15-19	2	0	1
20-24	2	1	1
25-29	3	1	1
30-34	3	1	2
35-44	4	1	2
45-49	5	1	2
50-54	5	1	3
55-59	6	1	3
60-64	6	2	3
65-69	7	2	3
70-74	7	2	4
75-84	8	2	4
85-89	9	2	4
90-94	9	2	5
95-99	10	2	5
100-104	10	3	5
105-109	11	3	5

* note that, except for projects taking the TSL bonus and projects in low-moderate income areas, the on-site obligation **may** also be met through the provision of off-site units, or the sale or lease of units to the CHA or an Authorized Agency

4.3 In-Lieu Fee Summary

ARO Zone	Initial In-lieu Fee (effective October 13, 2015)	Final In-lieu Fee (effective April 16, 2016)	Initial Authorized Agency In-Lieu Fee (effective October 13, 2015)	Final Authorized Agency In-Lieu Fee (effective April 16, 2016)	Initial In-Lieu Premium (effective October 13, 2015)	Final In-Lieu Premium (effective April 16, 2016)
Low-Moderate Income	\$50,000	\$50,000	n/a	n/a	n/a	n/a
Higher Income	\$125,000	\$125,000	\$100,000	\$100,000	n/a	n/a
Downtown rental	\$140,000	\$175,000	\$115,000	\$150,000	n/a	n/a
Downtown for sale	\$140,000	\$175,000	\$115,000	\$150,000	\$160,000	\$225,000

4.4 Timing of the In-Lieu Fee Calculation

The in-lieu fee will be calculated at the time the Affordable Housing Profile is approved by the ARO Project Manager. The fee that is effective at the time the project is submitted, as defined in Section 2-45-110 of the Municipal Code and again in Article 1.3 of the Rules & Regulations, will be utilized to calculate the in-lieu fee owed by a particular project.

The fee, as calculated, will be valid for two years following the date the project is submitted, per the definition referenced above. If the fee has not been received by the department within the two years following submission, the in-lieu fee owed will be recalculated at the time that payment is made.

In an effort to prevent the submission of Affordable Housing Profiles prematurely in order to secure a lower in-lieu fee, if the form is substantially altered within the year following the initial signature, the DPD Project Manager may recalculate the in-lieu fee owed based on the current rate.

4.5 Annual Adjustments to the In-Lieu Fee, based on the Consumer Price Index (CPI)

Pursuant to the 2015 ARO Ordinance, the in-lieu fee will be adjusted annually, beginning on January 1, 2018, to reflect adjustments in the Consumer Price Index (CPI) for all Urban Consumers for the Chicago metropolitan area, based upon the data published by the United States Department of Labor, Bureau of Labor Statistics.

The adjustment will be based on the year-over-year CPI numbers for September of each year and will take effect on January 1 of the following year.

The updated fee-in-lieu will be published on DPD's website no later than 45 days before the new rates take effect on January 1 of each year.

Article 5: Administrative Procedures for ARO Projects

5.1 Administrative Procedures for Rezoning and Planned Developments (PDs)

Permit Hold: The ARO PM places a hold in the Hansen permitting system on projects that are subject – or potentially subject – to the ARO to ensure that no building permits (including excavation or foundation permits) are issued for these address ranges until the developer pays the required in-lieu fee and/or records the Affordable Housing Agreement securing the construction of affordable units.

Affordable Housing Profile: As soon as project details are finalized, the developer should submit the Affordable Housing Profile Form (AHP), and required supporting documentation to the ARO Project Manager (ARO PM). The AHP provides the details on total number of units proposed; number, type (# of bedrooms), and pricing of affordable units; and anticipated project start dates. Beginning on October 13, 2015, developers must fill out the AHP online, at www.cityofchicago.org/ARO.

Once all required/requested documents have been received, the ARO PM will review the AHP to ensure that the number and type of affordable units proposed reflects the market mix and other standards outlined in Article 8 of the Rules & Regulations.

If off-site affordable units are proposed, the application is also subject to the Standards outlined in Article 6.2 of the Rules & Regulations. Off-site units are also reviewed for compliance by DPD's Construction and Compliance division.

PD Statements

PDs must also include a PD statement, as provided in its current form by the PD/ARO Staff, identifying the project's ARO, and, if applicable, Density Bonus obligation. If developers are electing to meet their ARO obligation by providing ARO units off-site, the details must be approved by DPD and included in the PD statements as well. The PD statement templates will be available online prior to the 2015 ARO Effective Date.

Affordable Housing Agreement and/or Payment of the In-Lieu Fee: Before the first building permit can be issued, the applicant must pay the in-lieu fee and/or record the Affordable Housing Agreement.

The **Affordable Housing Agreement** outlines and commemorates the requirements and procedures that govern how the developer and subsequent owners or occupants of the unit and/or development will comply with the ARO, and is recorded against the property's PIN(s) prior to issuance of any building permits. The signed Affordable Housing Profile (AHP) forms the basis for the Affordable Housing Agreement.

Projects that are not required to provide on-site units do not need to prepare or record the Affordable Housing Agreement.

In order to prepare the Agreement, the ARO PM will require a copy of the following documents:

- An executed copy of the deed transferring title to the developer;
- A copy of the title policy showing the developer as the owner of the property and the named insured (except in the case of City land sales, when this information is not available);
- If there were any exceptions in the title policy such as building code violations, evidence that the property owner has cleared those exceptions;
- Articles of organization for the LLC, certified by the Illinois Secretary of State;
- Operating agreement of the LLC (if any), certified by the manager of the LLC;
- Certificate of Good Standing for the LLC, issued by the Illinois Secretary of State;
- Resolutions authorizing the LLC to enter into the Affordable Housing Covenant and Agreement;
- Resolutions authorizing the person identified in the signature block to sign the Affordable Housing Covenant and Agreement;
- Name of the managing member of the LLC (signatory for covenant);
- Copy of the ordinance approving the city land sale, financial assistance, or change in zoning.
- Copy of the Affordable Housing Profile, signed by the applicant and the ARO PM.

Sample copies of the Affordable Housing Agreement will be available online at www.cityofchicago.org/ARO prior to the 2015 ARO effective date. Applicants should always ensure that they are working from the current version of this and all documents.

Once they have received written permission [email is sufficient] from the ARO PM, the developer is responsible for recording the signed Agreement with the Cook County Recorder of Deeds.

In addition to recording the Affordable Housing Agreement, the **in-lieu fee** and, if applicable, the off-site unit review fee, must be received by the ARO PM prior to the release of the first building permit. Payment is accepted in the form of a check made out to the City of Chicago. Wired Funds or credit card payments will not be accepted.

Releasing the Building Permit Hold: After the ARO PM receives a copy of the **recorded** Affordable Housing Agreement and/or has received a check in the amount of the payment-in-lieu, the ARO PM will release the permit hold.

The building permit hold release takes effect immediately, but developers should make an appointment to deliver the recorded covenant and/or payment, in order to ensure the ARO PM is available to accept it.

Part II Review for PDs Only: At the time of each Part II review for the Residential Project, the developer may update and resubmit the Affordable Housing Profile Form to the ARO PM for review and approval. If the developer subsequently reduces the number of dwelling units in the Residential Project, DPD may adjust the requirements without amending the PD.

5.2 Administrative Procedures for Projects Receiving or Purchasing City Land

5.2.1 Land grants or purchases through the City's Adjacent Neighbors Land Acquisition Program (ANLAP)

ANLAP will typically not trigger the ARO, as the vacant lots sold through ANLAP are required to be purchased by owner-occupant neighbors, and to be used, for a minimum of ten years following the purchase, only for uses auxiliary to the existing residence, including open space, a garage, or an addition to the existing home.

Because of these restrictions built into ANLAP, the deed of purchase for an ANLAP property does not typically trigger the ARO.

5.2.2 Land purchases through the City's Sealed Bid process

Land purchases through the City's Sealed Bid process do not require that the owner disclose the intended use of the sale prior to purchase. However, the ARO's applicability to the site is advertised in the bid, and the deed of purchase requires compliance with the ARO if it is triggered by the construction of a residential housing project including ten or more units.

5.2.3 Land purchases through the Negotiated Sales program are sold in two ways:

Lots sold at a discount are required to remain as open space or parking for 40 years – in which case the ARO would not apply, unless the parking is required by or accessory to a project that would trigger the ARO;

Lots sold at market value are required to be used for open space or parking – but may be converted to other uses after the first 6 months to 1 year. For lots sold at market value, the deed of purchase requires compliance with the ARO if it is triggered by the construction of a residential housing project including ten or more units.

5.3 Administrative Procedures for Projects Receiving Financial Assistance

Projects receiving financial assistance from the City for the construction of a Residential Housing Project are required to provide 20% of the units as affordable.

If residential projects receiving TIF are also receiving Low Income Housing Tax Credits, the long-term affordability of the required affordable units – as well as the income of the prospective tenants – will be tracked by the Department's Developer Services division.

Residential projects that are receiving TIF assistance – but no other form of City financial assistance that would impose stricter affordability requirements – must meet the requirements of the ARO.

Developers will be required to identify whether their project will likely be subject to the ARO on the TIF Application. The TIF PM will share the Affordable Housing Profile Form with the ARO PM.

Before the project can go to the Community Development Commission (CDC), the Affordable Housing Profile must be completed and signed by both the ARO PM and the developer/applicant. The Affordable Housing Profile includes details on the number and type of affordable units required, and/or the timing of the in-lieu payment. The Affordable Housing Profile Form, signed by the ARO PM, must also be attached to the TIF Redevelopment Agreement (RDA) as an Exhibit. In addition to the Affordable Housing Profile Form, the Affordable Housing Agreement securing the number and type of affordable units must be recorded separately and attached as an exhibit to the TIF RDA.

The RDA must be reviewed by the ARO PM and a City attorney representing the ARO prior to final approval.

Article 6: Compliance Options

The 2015 Ordinance (2-45-115 of the Municipal Code) sets out the Methods of Compliance in Article F. The following Rules provide clarification, where needed:

6.1 Sign a long-term lease with or sell units to the Chicago Housing Authority (CHA) or another Authorized Agency

ARO-subject projects Downtown or in Higher Income Zones may sell or lease their required affordable units to the CHA or another Authorized Agency. If a developer sells or leases at least 2.5 of the total units (1/4 of the required affordable units) to the CHA or another Authorized Agency, the remaining in-lieu fees will be reduced by \$25,000 per remaining required affordable unit.

The CHA or Authorized Agency must meet the definition of “Authorized Agency” detailed in the Ordinance, to the satisfaction of the ARO Project Manager. The Developer must submit a letter from the Authorized Agency with their Affordable Housing Profile Form verifying that the CHA or other Authorized Agency will be purchasing or leasing the affordable units for the minimum 30-year term.

For For-Sale units sold to the CHA, the CHA would buy the units from the developer and then lease to tenants on the CHA’s list. Prior to purchasing and subsequently leasing the units, the CHA will need to secure HUD approval. Because CHA is not able to secure HUD approval until the units are complete, the City will require that the developer record the affordable covenant and pay the full in-lieu fee to the City. The discounted amount (\$25,000 per unit provided to an Authorized Agency) will be set aside by the City in a separate account, per directions provided by the ARO PM. Once the units have been approved by HUD for purchase by the CHA, the City will authorize the refund of the Authorized Agency discounted funds to the developer.

If the units are not approved for purchase by the CHA, the developer will have an additional 90 days to identify an alternate Authorized Agency to purchase or lease the units, per the required terms.

If another alternate agency is not identified, the units will be considered off-site units, and the discounted funds will be retained by the City.

For Rental units leased to the CHA, prior to the issuance of any building permits for the project, the developer must sign a minimum-30-year Agreement to enter into a Housing Assistance Payments contract (AHAP) that will state the CHA’s intention to provide rental assistance for 30 years to low-income households upon completion of the project. The AHAP – and subsequent HAP agreement – would formalize the CHA’s agreement to provide rental assistance payments to the owner of the building, who will then house tenants from a list maintained by the CHA. The leases will be between the building owner and the tenant referred from the CHA’s list.

If a developer is working with an Authorized Agency other than the CHA, the ARO PM must ensure that the Authorized Agency meets the requirements outlined in the Ordinance.

Prior to the issuance of any building permits for the project, the developer must, at the City's direction, sign a minimum 30-year lease or record a 30-year deed restriction (as provided by the City) against the property to ensure that the unit remains affordable to households at 60% of the Area Median Income (AMI).

All Authorized Agencies will be responsible for submitting an annual report to DPD's Compliance Division, by October 31 of each year. The report, provided in the format requested by DPD, will provide the following information and any additional information requested by the Commissioner:

- Number of ARO units currently in the authorized agency's inventory;
- Monthly Rental rate for each affordable unit;
- Information concerning each tenant household's composition and gross income;
- Affordable unit operating expenses and revenues received by each agency.

Prior to the initial leasing of the affordable units, DPD must verify that the prospective tenants are income qualified. The Authorized Agency, with the exception of the CHA, should not sign a lease with any tenant leasing an ARO unit unless the tenant's income has been approved by DPD.

6.2 Build, Buy, or Rehab units off-site

6.2.1 City's goal for off-site units

Pursuant to the parameters set out in Article F, and the standards set out in Article V in Section 2-45-115 of the Municipal Code, developers in Higher Income Areas and Downtown may build, buy or rehab their required affordable units off-site.

By creating an off-site option, the Department is hoping to harness the expertise, experience, and ingenuity of the development community to create *more* affordable units off-site than would otherwise be created in the ARO-subject property. Developers are encouraged to be creative in meeting their off-site obligation. In addition to creating *more* units than would be possible on-site, the expectation is that the off-site units could be larger and potentially more affordable than their on-site counterparts.

6.2.2 Meeting required with DPD Staff

As soon as off-site units are contemplated within a development – and at least several weeks prior to submitting their Affordable Housing Profile Form to the City and three months prior to the expected date of permit issuance – any developer who is considering meeting their on-site ARO obligation by providing off-site units must schedule a meeting to review their proposal with the ARO PM. At the meeting, the developer should be prepared to discuss their proposed budget; project location; project scope; and other topics that will help DPD determine whether the off-site units will be acceptable.

6.2.3 Cost to Construct and Size of Off-Site Affordable Units

At minimum, the off-site units must have the same number of bedrooms as those that would have been required on-site. Square footage may be different, depending on the overall proposal from the developer, as approved by the ARO PM.

The cost to construct, acquire, or rehab the off-site units must equal or exceed the total amount of the equivalent in-lieu fees that would be required for the residential housing project.

For example, if a developer was building 100 rental units in the downtown zone, they would be required to build 10 affordable units, 3 of which would be required to be on-site. If they elected to construct these 3 units off-site, their off-site budget would be, at minimum, 3 x \$175,000, or \$525,000.

6.2.4 Design and Construction Standards for Off-Site Affordable Units

In addition to the design standards outlined in Article 8 of the Rules and Regulations, off-site units are subject to Articles U and V in Section 2-45-115 of the Municipal Code. Note that appliances (range or stove, refrigerator, dishwasher, if provided) shall be new, Underwriters Laboratories listed and approved, with a one-year minimum warranty.

6.2.5 Requirements for Review of Off-Site Affordable Units

For projects intending to build, buy, or rehab off-site units to meet all or a portion of their ARO requirement, the following documentation must be submitted with their completed Affordable Housing Profile form.

Documents required prior to project review, including, at minimum

- Description of status of site control
- Project work scope
- Project budget (including acquisition costs), with per-unit cost breakdown
- Construction schedule
- Description of anticipated building permits
- Site plan (if new, include elevations; if rehab, include construction drawings + scope; if existing, include scope of work)

Documents required prior to issuance of the subject ARO project's building permit

- Evidence of site control for off-site project
- Evidence of building permits for off-site units
- Administrative review fee (\$5,000) and in-lieu fee for units not being constructed

Documents required prior to Leasing of Units

- Certificate of occupancy for subject ARO project (if the project is phased, C of Os can also be phased)
- Marketing plan, as detailed in Article 9(For Sale Units) or Article 13 (Rental Units) of the Rules & Regulations.

6.3 Compliance through the ARO TSL (Transit Served Location) Bonus

For projects taking the ARO TSL bonus, verification from Zoning staff that the project is eligible for the ARO TSL Bonus will be required prior to the ARO PM's sign-off on the Affordable Housing Profile Form.

6.4 Compliance through payment of the In-Lieu Fee

In-lieu fees must be received prior to the issuance of any building permit, including excavation or foundation permits. Payment is accepted in the form of a check made out to the City of Chicago. Wired Funds or credit card payments will not be accepted. Upon receipt of payment, the ARO PM will issue a receipt to the developer and will release the building permit hold(s). **The building permit hold release takes effect immediately, but developers should make an appointment to deliver the recorded covenant and/or payment, in order to ensure the ARO PM is available to accept it.**

Note that projects with fewer than 20 units or downtown for-sale projects that elect to pay the in-lieu fee premium may meet their entire ARO obligation through payment of an in-lieu fee.

Article 7: Timing of the recording of the Affordable Housing Agreement and Payment of the In-Lieu Fee

For projects for which all units are permitted under a single building permit, the in-lieu fee and/or the recording of the affordable housing agreement are required prior to the issuance of the initial building permit (or, if applicable, the excavation or foundation permit).

For single family developments, multi-phased projects or others in which permits are issued on a unit-by-unit basis, the ARO obligation may be phased, as follows:

When the developer intends to construct affordable units, he/she must record the Affordable Housing Covenant against the project's address range prior to the issuance of the tenth permit.

When the developer intends to make the in-lieu payment, the developer must make the payment whenever an additional in-lieu payment would be triggered. So, the first payment must be made before the permitting of the 10th unit; the 2nd payment before the permitting of the 15th unit; the 3rd payment before the permitting of the 25th unit, and so on.

Article 8: Design and Construction Standards for Affordable Units

Developers who provide affordable units must adhere to the Standards for Affordable Units outlined in Article U of 2-45-115 of the Municipal Code. Developers who are constructing off-site units must adhere to Article V of 2-45-115. The following rules and regulations will help clarify these requirements.

8.1 Unit Mix

The ARO PM's sign-off is required as part of the Affordable Housing Profile Form to ensure the unit mix meets the Standards outlined in Article U of the Ordinance. This unit mix must be maintained for the 30-year affordability period.

If the building's unit mix changes prior to the issuance of building permits, the applicant must alert the ARO PM and the affordability requirements may be adjusted.

8.2 Square Footage

The square footage of affordable units should be generally consistent with the square footage of comparable (by number of bedrooms) market rate units in the project.

8.3 Amenities and Finishes

While developers are encouraged to include the same amenities and finishes in affordable units as in market units, affordable units may have different in-unit amenities and finishes than market-rate units in the residential housing project, as long as:

- The basic components are the same; and
- The affordable amenities and finishes are durable, of good and new quality, and are consistent with then-current standards for new housing.

In-unit amenities include air conditioning and laundry facilities.

8.4 Parking

Parking (in the same format as provided to market units) must be included in the sale price or rent of the unit, unless the developer can demonstrate to the satisfaction of the City that parking is not included in the purchase price/rent of the market-rate units.

8.5 Fees and Earnest Money

Affordable tenants or purchasers shall not be assessed any fees that are not assessed to market rate buyers.

Developers may accept earnest money from an affordable buyer, but that earnest money should be 100% reimbursable if the applicant does not meet DPD's affordability guidelines.

8.6 Pricing

Units are priced to be affordable pursuant to the definition of "Affordable" in Section 2-45-115 of the Municipal Code. The ARO PM will request information about the development from the developer in order to set the affordable prices at the time he/she signs off on the AHP.

8.6.1 Pricing of For Sale Units

ARO For-Sale units must be priced to be affordable to households earning no more than 100% of the AMI (Note that the Ordinance allows households earning up to 120% of AMI to *purchase* the units). If TIF assistance is provided to the developer for the purposes of residential construction, 10% of the total units must be priced to be affordable to households at 100% of AMI and 10% of the total units must be priced to be affordable to households at 80% of AMI.

The City's affordable formula takes into account a buyers' total monthly housing costs, per the assumptions indicated below. The formula assumes that a buyer will finance 95% of the purchase price. Maximum sales prices assume 1.5 occupants per bedroom and 1 occupant for a unit with no bedrooms.

No price is valid unless the ARO PM has signed off on the AHP.

Total Monthly Housing Costs include the following:

Monthly Housing Costs											
Cost	Assumption										
property taxes	2% of the price and/or value										
condo assessment/home maintenance	<p>Higher of the amount indicated by the developer/homeowner - or the average assessments, set by the City using MLS data for all annual sales, for units by number of bedrooms.</p> <p>Those amounts are currently set at:</p> <table border="1"> <tr> <td>studio</td><td>\$300</td></tr> <tr> <td>one-bedroom</td><td>\$325</td></tr> <tr> <td>two-bedroom</td><td>\$350</td></tr> <tr> <td>three-bedroom</td><td>\$375</td></tr> <tr> <td>four-bedroom</td><td>\$375</td></tr> </table> <p>For single family homes that do not assess homeowners a monthly fee, this amount is reduced to \$150/month to encourage maintenance savings for single family homes.</p>	studio	\$300	one-bedroom	\$325	two-bedroom	\$350	three-bedroom	\$375	four-bedroom	\$375
studio	\$300										
one-bedroom	\$325										
two-bedroom	\$350										
three-bedroom	\$375										
four-bedroom	\$375										
CCLT covenant fee	tbd										
Private Mortgage Insurance	PMI is estimated at 0.070% of the mortgage amount.										
Property Insurance	<p>0.25% of the market price for condominiums</p> <p>0.75% of the market price for single family homes or townhomes (where buyers are paying for full homeowners rather than renters/contents insurance)</p>										
Interest Rate	The interest rate is the <i>higher</i> of the current interest rate, as published in the <i>Chicago Tribune</i> , and rounded up to the nearest quarter point - OR - the 10-year average of interest rates, as calculated by the City of Chicago, based on data provided annually by Freddie Mac as "Contract interest rates on commitments for fixed-rate first mortgages. Source: Primary Mortgage Market Survey® data provided by Freddie Mac."										

Once the applicant and City have signed off on the Affordable Housing Profile, utilizing the AMI in place at the time of the sign-off of the AHP, the maximum affordable sales price is valid for a period of one year. If the Affordable Housing Agreement securing the units is not filed before the one-year period expires, the City will recalculate the maximum affordable sales price.

Once the Affordable Housing Agreement has been recorded, the maximum affordable sales price effective at the time the agreement is recorded will be valid for one year from the date of recording. If the unit(s) is/are not under contract within the year following the date of the

Agreement, the Developer shall notify the ARO PM and the ARO PM will recalculate the maximum affordable sales price (s) of the affordable units in accordance with the then-current formula.

8.6.2 Pricing of Rental Units

ARO Rental units must be priced to be affordable to households earning no more than 60% of the Area Median Income. If TIF assistance is provided to the developer for the purposes of residential construction, 10% of the total units must be priced to be affordable to households at 50% of AMI and 10% of the total units must be priced to be affordable to households at 60% of AMI.

Affordable rents are updated annually by the department, based on income limits as published by HUD and utility allowances published by the Chicago Housing Authority.

DPD publishes the affordable rents at www.cityofchicago.org/ARO as soon as they become available, typically between February and June of each year.

Maximum rents assume 1.5 occupants per bedroom and 1 occupant for an apartment with no bedrooms.

8.7 Income Eligibility

8.7.1 For-Sale Units

For projects that are not receiving financial assistance, for-sale units must be purchased by households earning up to 120% AMI.

If TIF assistance is provided to the developer for the purposes of residential construction, buyers for 10% of the total units may earn no more than 80% of AMI and buyers for 10% of the total units may earn no more than 100% of AMI.

DPD follows HUD's HOME guidelines for calculating annual *gross* household income.

Per DPD Policy, eligible purchasers may not spend more than 38% of their household income on housing.

8.7.2 Rental Units

For projects that are not receiving financial assistance, rental units may be leased by households earning up to 60% of area median income (AMI).

If TIF assistance is provided to the developer for the purposes of residential construction, tenants for 10% of the total units may earn no more than 50% of AMI and tenants for 10% of the total units may earn no more than 60% of AMI.

Tenants are income qualified at the time of initial rental, or if a tenant is added or removed from the lease.

While developers are required to submit annual reports indicating that the affordable units are leased at an affordable price per the current Maximum Rent Limits, the tenants already residing in the units do not need to be income qualified annually, unless there are any changes to the individuals listed on the lease.

Prior to the initial leasing of the affordable units, DPD must verify that the prospective tenants are income qualified. The developer or management company should not sign a lease with any tenant leasing an ARO unit unless the tenant's income has been approved by DPD.

DPD follows the Department of Housing & Urban Development (HUD)'s guidelines for calculating annual *gross* household income, as published in Chapter 5, titled "Chapter 5: Determining Income & Calculating Rent" of the HUD Handbook and published at http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_35649.pdf.

8.7.3 Income Limits

Income limits for the Chicago Primary Metropolitan Statistical Area (PMSA) are updated annually. They are typically released by HUD between December and April and are subsequently published on the Department's website.

The income limits in place at the time of a tenants or homebuyer's application will be utilized in determining their eligibility to lease or purchase the unit.

The DPD approval letter certifying income eligibility for Rental units is valid for one year.

The DPD approval letter certifying income eligibility for For Sale units is valid for two years, but is specific to the project for which a prospective buyer is applying to purchase. A prospective buyer may not transfer an income certification between projects.

The current income limits are available online at www.cityofchicago.org/ARO.

Article 9: Marketing ARO Units: For Sale Units

While DPD will typically list the affordable units on their website and share the information with any potential buyers who have indicated an interest in purchasing affordable units, **it is the responsibility of the developer to market and sell their ARO units.**

Developers shall use good faith and affirmative efforts to attract potential purchases or tenants from all minority communities and from households earning less than 120% (for-sale) of the AMI (or, if TIF assistance is received, marketed to households earning less than 100% and 80% of the AMI) through the marketing and advertising of the ARO units.

To ensure that units are marketed widely and sold in a timely manner, DPD has set the following parameters for marketing all ARO for-sale units.

9.1 Marketing Intake Meeting

Before marketing any unit for sale – and at least 90 days prior to the commencement of marketing for the units (all units, not just the affordable units) and 180 days prior to the anticipated closing for the affordable units – the developer must schedule a Marketing Intake Meeting with DPD Homeownership Center staff.

At the meeting, the Developer must submit their marketing plan. DPD staff will review the marketing and affordability requirements, and will review the process to approve and income-qualify eligible buyers/tenants with the applicant and marketing agents.

The meeting should be attended by the developer or his/her representative, and the marketing/sales agents that will be overseeing the process to sell the affordable units.

9.2 Marketing Plan

At the Marketing Intake meeting, the applicant must submit their completed marketing plan for the project, following the format of the Marketing Plan template provided at www.cityofchicago.org/ARO.

No marketing or advertising material related specifically to the affordable units should be distributed or published until DPD has signed off on the developer's Marketing Plan for the project.

If the Marketing Plan is not approved, DPD will provide recommendations to remedy any deficiencies.

DPD recommends – but does not require - that the applicant work with a marketing agent specializing in affordable units to ensure their affordable units are marketed effectively and sold quickly.

Article 10: Requirements for ARO Homebuyers

Potential homebuyers must meet the following requirements:

10.1 Be Income Qualified

Per Article 8.7.1 of the Rules & Regulations.

10.2 Complete Homeownership Training

Potential homebuyers must receive certificates verifying that they have received the following pre-purchase education from a DPD-approved Delegate Housing Counseling Agency prior to submitting their application to purchase, unless otherwise indicated by DPD.

All certifications must be provided to DPD at least 10 days before closing.

Certifications are good for one year from date of issuance.

10.2.1 General Pre-Purchase Training

- General Pre-Purchase Homebuyer certification requires 8 hours of training (including 6 hours of classroom training and 2 hours of one-on-one education)
- **on-line certification is *not* permitted**

- List of City-funded housing counseling agencies is online at http://www.cityofchicago.org/city/en/depts/dcd/supp_info/homeownership_housingcounselingcenters.html. Each Counseling agency maintains a calendar of scheduled classes on their websites.

10.2.2 Condo Training

Specific condo training is required **for purchasers of condominium units only** in order to ensure that buyers understand the particular restrictions and obligations inherent in the purchase of a condominium.

10.2.3 Chicago Community Land Trust Training

If the unit will be sold through the Chicago Community Land Trust (CCLT), CCLT-specific training is required, in order to ensure that buyers fully understand the ownership and resale restrictions and obligations inherent in purchasing a CCLT unit.

10.3 Mortgage Pre-approval

If a buyer is purchasing a CCLT unit, each potential purchaser must obtain a mortgage pre-approval letter from a lender approved by the CCLT. The list of approved lenders is available at www.cityofchicago.org/CCLT. The letter should indicate the type of loan product, maximum loan amount, interest rate and term (only 30 year fixed rate loans are allowed).

CCLT Staff will ensure that homebuyers will not be spending more than 38% of their income on housing, and will verify that the mortgage they are receiving is not a predatory loan.

10.4 Completed Application

The completed homebuyer application must be accompanied by the following documentation, and must be received at least ten days prior to signing a purchase contract:

- Homebuyer Counseling certificates (including Condo + CCLT Training, as applicable), as detailed above in Article 10.2 of the Rules & Regulations
- Mortgage pre-approval from a participating lender, as detailed above in Article 10.3 of the Rules & Regulations
- Copy of driver's license or State ID for each applicant over 18 years of age
- Tax returns (signed) and W-2s for the prior two years
- Paystubs from the prior three pay periods
- Child Support Affidavit
- Completed Verification of Employment, signed by HR department of employer
- Copy of Mortgage loan application
- Copy of divorce decree or legal judgment of separate maintenance (if applicable)
- Household Income affidavit

Additional documentation may be requested to verify income and eligibility.

Prior to Clear to Close/Scheduling a closing for "For Sale" ARO units, the following documentation must be received at least ten days prior to the scheduled closing in order to prepare the restrictive covenant:

- Signed Sales Contract/Purchase Agreement, with all upgrades and options listed
- Appraisal

Article 11: Process to Sell Affordable Units to Income-Qualified Homebuyers

Unless otherwise indicated by DPD, Applicants or their agents will be responsible for collecting completed homebuyer applications, per Article 10 of the Rules & Regulations.

Applicants will designate a date on their Marketing Plan (the date must be at least 30 days after which the units have been posted to the City's website and 30 days after the marketing activities approved in the Marketing Plan have been initiated) after which completed applications will be accepted. Applications should not be accepted unless they are complete, including all required documentation.

Unless otherwise determined by DPD Staff that a lottery or other application process is more appropriate, completed applications should be time and date-stamped, and submitted to DPD in the order of receipt.

DPD staff will review completed applications, and will give potential purchasers up to ten business days to comply with submittal requirements before moving to the next applicant.

Priority to select specific units will be based on order in which a completed application is submitted.

DPD Staff will send out Letters of Conditional approval will be sent out to all potential buyers who are determined to be income-qualified to purchase an affordable unit. Qualified buyers will then sign a contract to purchase a unit and complete the steps needed to get a final commitment from their lender.

When DPD financing is involved or the unit is being sold through the CCLT, the seller is responsible for sending a final request to close to DPD; DPD will issue a Clear to Close when the title commitment; final lender commitment letter; all required certifications; and a final appraisal are received by DPD.

Failure to record the 30-year resale restriction will deem the project non-compliant and will subject the developer to the Penalties for Non-Compliance detailed in Article 16 of the Rules & Regulations.

11.1 Lottery

If demand for a particular unit is expected to be high, DPD staff may recommend that the developer sell the unit via a lottery process, to ensure that opportunity to purchase the unit is made available to as many income-qualified homebuyers as possible.

Article 12: Homeowner Restrictions on ARO Units

12.1 Resale or Transfer of ARO Units

The resale or transfer of any affordable housing unit shall be restricted as follows:

- During the thirty-year affordability period, owners of ARO units must sell their units at a price that renders the housing unit affordable, per the affordable housing agreement, to a household meeting the eligibility criteria as certified by DPD, or its agent.
- ARO Homeowners whose units are being sold through the CCLT are advised to contact DPD at least 6 months prior to the anticipated time of sale or whenever they decide to sell the unit, whichever comes sooner, in order to get direction from the CCLT on the process to price and sell the unit. While the resale process is often faster than 6 months, the process to set the resale price requires a current (no more than 6 months old) appraisal, which can take up to a month to order and receive. In addition, the CCLT has a 30-day Right of First Refusal period to purchase the unit, both of which mean that the process to sell an affordable unit will typically take longer than the process to sell a market-rate unit.

Once the appraisal is received, DPD will calculate the maximum resale price. The homeowner will be required to reimburse the CCLT for the price of an appraisal for the home, if a current (no more than 6 months old) appraisal is not available for the property.

- Existing homeowners will not be required to complete a Marketing Plan for their home, but they will be responsible to sell the home. While the payment of a real estate agent commission is not factored into the maximum resale price of a home, sellers are welcomed to work with a real estate agent to sell their home.
- Any listings for the unit should include the following language under the Remarks section: “This is an affordable unit created through the City of Chicago’s ARO program: income restrictions – as well as restrictions on the resale price – may apply. Owner occupants only, and homebuyer education classes required before purchasing. Contact *[insert contact]* for more information on affordability restrictions.”
- An interested buyer must submit a complete program application to DPD to determine eligibility, to the attention of:
Homeownership Center
City of Chicago, Department of Planning and Development
121 N LaSalle St – Room 1006
Chicago IL 60602
- A homebuyer approval letter will be issued within ten (10) business days from the receipt of a completed application from the interested buyer. An approval letter is required in order to purchase an affordable unit.

12.2 Monitoring and Reporting Requirements

Purchasers of ARO units are required to submit annual affidavits verifying:

- that they maintain homeowner’s insurance on the property;
- that they continue to reside in the property as their primary residence; and
- providing current contact information
- current income/occupation and other demographic information, as requested

12.3 Refinances

Post-purchase education may be required prior to Refinancing of an affordable unit.

Homeowners are required to contact DPD once a refinancing lender has been identified to initiate the subordination process and request a Subordination Agreement.

DPD Policy does not allow cash-out in Subordination transactions. The maximum new mortgage loan amount will be the amount of the pay-off letter(s) plus the closing costs shown on a signed GFE. The amount of the new mortgage loan must be consistent on the following documents.

The following documents should be submitted to DPD by the lender to initiate processing of the Subordination Request:

- A copy of the recorded City of Chicago junior mortgage related to your request.
- A signed Subordination Request letter from the new lender, with all transaction details, and the rationale for the refinance.
- A copy of the signed Homeowner's authorization to release information.
- A copy of the signed Good Faith Estimate for the new mortgage.
- A copy of the signed copy of the properly completed 1003.
- A copy of the signed Truth-In-Lending Disclosure for the new mortgage.
- A pay-off letter for a date at least fifteen (15) business days from the date documents are delivered to DPD
- A copy of the signed Mortgage Approval/Commitment Letter with term, P&I and details for the new mortgage.
- Copy of new Title Commitment for the amount of new mortgage (may not be required for land sales).
- Copy of the Appraisal or other Market Value Analysis used to process the new mortgage
- Documents to show original loan amount, P&I, and loan type.

Upon receipt of all of these documents from the lender the DPD staff can initiate processing the Subordination Request. This can take 15 business days, or longer. If approved, the Subordination is mailed USPS, unless a prepaid overnight carrier envelope is provided. The lender should ensure that the amount of the new mortgage loan is consistent, even on the Title Commitment, and the rate is consistent on all documents.

CCLT Homeowners may be required to refinance with a participating lender – and receive permission from the CCLT prior to refinancing.

Article 13: Marketing ARO Units: Rental Units

It is the responsibility of the developer to market and lease their required affordable units.

Applicants shall use good faith and affirmative efforts to attract potential tenants from all minority communities and from households earning less than 60% of the Area Median Income (or, if TIF assistance is received, marketed to households earning less than 60% and 50% of the AMI) through the marketing and

advertising of the ARO units. To that end, DPD has set the following requirements and parameters for marketing all affordable rental units.

13.1 Marketing Intake Meeting

Before marketing any unit for rent – and at least 30 days prior to the commencement of marketing for the units (all units, not just affordable units) – the applicant must meet with DPD Compliance Staff for a marketing intake meeting to review the process to market and lease the unit to an income qualified tenant, as well as the process to income qualify tenants AND submit annual compliance documentation. At this meeting, Developers are required to submit the ARO Rental Unit Marketing Form to the DPD Project Manager.

The meeting should be attended by the applicant(s), and should include those responsible for leasing the units and income-qualifying tenants AND for submitting annual compliance documentation.

The meeting will cover the following:

- Number and type of units which must remain affordable
- Period of affordability
- Unit requirements
 - Finishes
 - Square footage
 - Fees
 - “floating” units
- How to calculate tenant income
 - Tenant Information Certification (TIC) form and how to fill it out
 - What information are you required to collect and review?
 - What constitutes a “household member”
- Maximum Affordable Rents
- Initial Lease-Up Requirements
- Annual Reporting Requirements

The Compliance Division will send a letter to all participants following the meeting confirming participation.

13.2 Marketing the Affordable Rental Units

Developers must complete and submit the ARO Rental Unit Marketing Form to the DPD Project Manager at the Marketing Intake Meeting, and before marketing their affordable units. The City will use the information provided on this form to list the units on the City’s [Affordable Housing Resource List](#).

Developers are responsible for providing current contact information to the City for the term of their affordability period.

Developers are encouraged to reach out to their [local housing counseling agencies](#) to identify interested and income-qualified tenants.

Marketing and Leasing of the affordable units must follow all provisions of the City's [Residential Landlord and Tenant's Ordinance](#) as well as all applicable sections of the [Fair Housing Ordinance](#).

Article 14. Process to Income Qualify an ARO Tenant

- Management company takes a rental application from the tenant
- Management company requests required income documentation for household income
- Management company performs initial income verification for an ARO unit
- Management company provides tenant income information to ARO Program staff
- ARO staff reviews tenant income information and issue emailed response to the management company. If tenant is qualified, ARO staff issues tenant approval letter.
- Once Tenant Approval Letter is signed, the management company may sign lease with approved tenant.

The management company must furnish a signed copy of the lease to the City.

14.1 General Guidelines

- Tenants applying to rent affordable units should not be charged any fees for applying for an affordable unit that are not evenly applied to all applicants.
- Project owners may evaluate prospective tenants based on the criteria they typically use to do so, and may not evaluate prospective tenants on any criteria they would not apply to all tenants.
- Affordable rental units should be rented to qualified tenants on a first-come; first-served basis.

Article 15: Monitoring and Reporting Requirements for ARO Rental Units

Owners or Authorized Agencies of rental properties must submit the Annual Owner Certification (AOC) documentation to the Department of Planning and Development's Compliance Division by October 31 of each year, including:

- The rent roll (which includes tenants name, current lease period and household composition data)
- Annual Owner's Certification (Compliance Certificate filed as Exhibit in Affordable Housing Agreement – including information on number of bedrooms and square footage of each affordable unit)
- Completed Tenant Income Certification (TIC) form with required documentation for every ARO unit (do not need to have new forms unless there is a new tenant, or someone has been added to the lease of the current tenant)
- Copy of lease agreement for every ARO unit
- Contact information for the management company
- Copy of the original signed Affordable Housing Profile

It is the responsibility of the Management Company to submit completed and notarized AOC documentation to the Compliance Division of the Department of Housing and Economic by October 31 of each year (or as otherwise indicated by the Compliance Division) until the expiration of the Affordable Housing Agreement term.

Article 16: Penalties for Non-Compliance

Penalties for developers who fail to meet their ARO obligation or lease or sell required affordable units per the terms of the Ordinance are subject to the Enforcement provisions outlined in Article N of the Section 2-45-115 of the Municipal Code. Note that developers that submit piecemeal applications to avoid meeting the ARO – and that are later determined by the City to be subject to the ARO – will be subject to these penalties.

Article 17: Changes to the Rules & Regulations

The Rules and Regulations may be updated at any time at the discretion of the Commissioner. The current version of the Rules will be dated and published on the DPD website at www.cityofchicago.org/ARO.

Article 18: Changes to the Project

18.1 Project does not move forward

If the project receives a zoning change and does not move forward, the hold will remain on the address range. If a different project submits a permit to construct a residential housing project on the site (ie a project with 10+ residential units), that project will be subject to the ARO, regardless of the ownership of the lots or development.

18.2 Changes to the project

Any change to the project following approval by Plan Commission, City Council, or DPD that increases allowable FAR or number of residential units would require a recalculation of the affordable housing requirement.

Changes to the overall unit mix in the project may result in changes to the affordable unit mix – but would require the ARO PM's signature prior to the issuance of the building permit. Approval would be based on the criteria outlined in Article 8 of the Rules & Regulations.

18.3 Sale of the Property

If the project or land is sold or transferred, the affordability obligation remains with the property.

18.4 Project converts from Rental to For-Sale

Projects that convert from rental to for-sale prior to the expiration of the 30-year affordability term will be required to sell the affordable rental units to income-qualified for-sale buyers, under the terms of the ARO. The 30-year affordability term will restart on the date of the initial sale of the condominium unit.

18.5 No changes permitted after the building permit has been issued

The Ordinance requires that, prior to the issuance of a building permit, all ARO-subject projects must pay an amount equal to the required fee in lieu or file the affordable housing agreement securing the construction of the affordable units.

If the developer fails to comply, the penalties described in Article 16 of the Rules & Regulations become effective.

18.6 Developer elects to provide on-site affordable units after they've paid the in-lieu fee

If the developer elects to provide additional affordable units after DPD has already received their in-lieu fee, the ARO PM may work with the developer to seek a refund in exchange for the filing of the affordable covenant securing construction of the units.

Article 19: Affordable Housing Opportunity Fund

The in-lieu fees and other fees collected through the ARO and Density Bonus shall be deposited into the Affordable Housing Opportunity Fund, unless required to be deposited into another fund pursuant to federal or state law.

The Department of Planning and Development is responsible for administration of the Affordable Housing Opportunity Fund, as set forth in Chapter 2-45-115 of the Municipal Code of Chicago. DPD reports quarterly on the collection and expenditure of funds collected under the ARO.

19.1 Collection of Funds

Developers who are making a payment in lieu must submit a check payable to the "City of Chicago" to the Department of Planning and Development. The Department of Planning and Development will deposit the funds into the established account, and issue the developer a receipt for the deposit.

Article 20: Hardship Waivers

Because of their widely varying land use and operational characteristics, hardship waiver requests require case-by-case review. Hardship requests should be made to the ARO Project Manager, who will forward the request for consideration to the Commissioner.

At minimum, in order to be considered for a hardship waiver, the applicant would need to provide evidence and/or written description of evidence that the particular hardship exists, specifically that the ARO creates a hardship for which:

- the practical difficulties or particular hardships are due to unique circumstances and are not generally applicable to other similarly situated property;
- the particular physical surroundings, shape or topographical condition of the specific property involved would result in a particular hardship upon the *property owner* as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
- the conditions upon which the petition for a *hardship* is based would not be applicable, generally, to other property within the same zoning classification;
- the purpose of the *hardship* is not based exclusively upon a desire to make more money out of the property;
- the alleged practical difficulty or particular hardship has not been created by any person presently having an interest in the property;
- the granting of the *hardship* will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; and

- the waiver, if granted, will not set a precedent that reduces the impact or is counter to the intent of the ordinance.

Article 21: Contacts

Questions about the Affordable Requirements Ordinance can be directed to the following individuals.

Department of Planning and Development (Bureau of Housing)

ARO Project Manager

121 N LaSalle

Chicago, IL 60602

Phone: 312-744-6746

Department of Planning and Development (Bureau of Zoning)

Assistant Commissioner

121 N. LaSalle, Room 905

Chicago, IL 60602

Phone:

Department of Planning and Development (Compliance & Monitoring Division)

Program Auditor III for NSP/ARO/TIF

Phone: 312.742.0345